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*Procurement  
Subgroup Report*

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## 1.0 Introduction

The Procurement Subgroup Report examines the strategies and approaches that the District could utilize in providing competitive, public sector contracting, and procurement opportunities to local, small and disadvantaged business enterprises (LSDBEs) in the District. The Subgroup examined how to improve upon LSDBE's contracting opportunities within the District government and upon outside private sector opportunities. To link the LSDBE program goals and requirements to the procurement processes, the Subgroup spent considerable time examining the District's procurement process, specifically those of the Office of Contracting and Procurement (OCP), which is responsible for contracting out a significant portion of City contracts. OCP provides acquisition services for 56 District agencies under the authority of the Mayor, as well as independent agencies subject to the Procurement Practices Act. In FY 2002, the Office accounted for over \$1.5 billion in acquisitions, including 1,600 contract acquisitions and 19,000 small purchases.

## 2.0 Statutory Framework and Program Expectations

The statutory framework for the local, small and disadvantaged business development was established by the "Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Act" (DC Code Sec. 2-215, 2002). Chapters 6 and 7 of Title 27 of the District of Columbia Municipal Regulations establishes the framework for the Office of Contracting and Procurement. These regulations also set forth the responsibilities of the Local Business Opportunity Commission (LBOC). The Commission promulgates rules and regulations in order to accomplish the goals of the Act and the various programs established under the authority of the Local, Small and Disadvantaged Business Enterprises Act of 1992 (DC Code Sec. 2-115 (2002)).

Though these regulations set forth rules for establishing sheltered market programs, there are many other avenues of procurement that are available to LSDBEs. Such avenues include the use of LSDBEs on a District-wide supply schedule and the establishment of blanket purchase agreements utilizing LSDBE contractors. The Procurement Subgroup reviewed additional processes and mechanisms that could be used to ensure that LSDBEs are full participants in the contracting process.

The Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Amendment Act of 2000 – DC Law 13-169 (DC Code Sec. 2-217 (2001)) creates LSDBE preference points for evaluating bids and proposals by government agencies. DC Law 12-268 establishes the 50% procurement target to be reached by District agencies in their contracting with small businesses. The 2000 amendment created a new preference category for "Resident Business Ownership."

Under the existing administrative framework, there is uncertainty on the part of some LSDBEs and legislators concerning how, and whether in fact, District agencies are complying with the requirement to provide 50% of their procurement opportunities to small businesses. OLBD is

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responsible for enforcing procurement regulations for businesses already holding certification and for reviewing the agency procurement plans in accordance with DC Code Sec. 2-1205.3 (5), (10), (2001). However, there are no comprehensive administrative and program management methodologies in place to ensure effective reporting of procurement data by all agencies of the District government. This is due, in large part, to incompatible information systems used by the District's three major procurement process partners; OLBD, OCP, and the Office of the Chief Financial Officer (CFO). As a result the Task Force found disparate reporting systems and data, making it extremely difficult to prove.

A review of DC Code Ann. Sec. 2-1205.3 that sets forth the responsibilities of OLBD, indicates that the Office has a sufficient and explicitly worded statutory mandate to promote the growth and development of LSDBEs. With regard to LSDBE procurement, the law states that the function of the Office shall be to:

- ◆ Stimulate and foster greater opportunities for certified LSDBEs to participate in District procurement for goods and services than would otherwise be possible.
- ◆ Educate, disseminate, and market contract opportunities information.
- ◆ Enforce procurement regulations for businesses already holding certification.

The Office also has the authority to:

- ◆ Evaluate the LSDBE programs under DC Code Sec. 2-217.02 (2001).
- ◆ Review the procurement plans of each agency of the District government and determine, if it deems appropriate, which contracts, or parts thereof, shall be reserved for the programs established under DC Code Sec. 2-217.03. If the agency has failed to meet the goals set forth in DC Code Sec. 2-217.02 (2001), the Office shall reserve portions of the agency's contracts to be performed in accordance with programs established under DC Code Sec. 2-217.03, so that the agency's failings may be timely remedied.
- ◆ Review agency plans and take appropriate action pursuant to DC Code Sec. 2-217.02.
- ◆ Consider an agency request for adjustment of agency LSDBE contracting goals, provided that the Office report recommendations for changes of the goals on an agency basis, if appropriate, to the Mayor and the Council on a semi-annual basis.
- ◆ Review bids in the small business enterprise set-aside arrangements. It may authorize agencies to refuse to award a contract where the Office determines that bids for a particular contract are excessive.
- ◆ Review contracting problems and make further recommendations that increase LSDBE contractor participation with the District government. Recommendations shall include improved schedules that ensure prompt payment to contractors, special geographic radius requirements on certain contracts, innovative contract advertising procedures, the encour-

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agement of joint ventures, and advice to the Mayor on methods to be utilized to ensure program participation.

The regulatory or procedural ties that should bind the LSDBE certification process to the procurement process in order to generate meaningful utilization of LSDBEs in procuring goods and services by the District government do not exist.

### **3.0 Issues: Identification, Analysis, and Validation**

Although the statutory authority exists for OLBD to promote the utilization of LSDBEs, the Subgroup found that the bifurcated relationship between the LSDBE certification process and the actual procurement process contributes to an under utilization of LSDBEs in the District's procurement supply chain. While the procurement process would normally begin when a unit decides that it needs to procure a good or service, the focus of our work is on LSDBE procurement. Therefore, the Subgroup believes that the procurement process should begin with the certification process so that LSDBEs program goals and requirements become an integral part of acquisition planning, and that LSDBEs are linked with actual contract award opportunities in the supply chain.

OLBD currently has responsibility to process applicants into the LSDBE program in an effort to foster economic development and job creation in the District of Columbia. The agency's mission clearly encourages OLBD to advocate for inclusion of LSDBE's in contracting opportunities with District agencies and with private sector partners. Though not explicitly included as a function of the agency, OLBD feels that it is within its mandate to monitor District agency and private sector memoranda of understanding to ensure compliance with LSDBE goals and objectives. While the commitment and passion for advancing the LSDBE initiative by OLBD is evident in its administration of the program (related to outreach and referrals for certified businesses) its success in goal attainment, as defined by the LSDBE community, is inhibited by several factors:

- ◆ The certification process accounts for too much staff time, leaving little time for other important program functions by OLBD personnel.
- ◆ The certification process is not connected to the procurement process. Although there is one staff person assigned as a liaison between OLBD and OCP, there is no strong program implementation link between the LSDBE program requirements and the actual procurement of goods and services or the program administration.
- ◆ OLBD staff does not have adequate contract management and procurement backgrounds to sufficiently advocate before OCP at the procurement stage and, therefore, are likely missing opportunities to influence buying decisions.
- ◆ The true measure of success in LSDBE utilization in contracting is not well defined (is the measure of success the number of dollars paid to LSDBEs, the number of contracts

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awarded to LSDBEs, or payments or distribution of procurement with LSDBE vendors?). Without well-defined measurements, OLBD will find it difficult to articulate LSDBE program success.

- ◆ Both the OLBD and OCP lack the required resources to hire and train additional personnel to administer the program effectively.
- ◆ There is a difference in perception between OLBD and the business community concerning the role that OLBD should play in ensuring LSDBE utilization.

### **3.1 Linking Certification to Procurement**

A complete process review of the current LSDBE certification and procurement processes reveals a fundamental gap between the two processes. If closed, the Subgroup believes that LSDBEs will have a greater opportunity to compete for procurement opportunities from the District government. Many businesses painstakingly go through the LSDBE certification process and are often disappointed that a contract does not result. While the false perception by some businesses that certification equates to contract award, the Subgroup does believe that a formal “hand-off” to the OCP of certified LSDBEs would generate greater contracting opportunities for LSDBEs. Many vendors go to great lengths to get their certification, and then must start anew to establish contacts within the agencies of the government in order to pursue contracts. These vendors find it difficult to break through the barriers to get agency contacts to even explain their goods or services. To be successful in meeting the procurement objectives of increasing contracting opportunities for LSDBEs, the two processes under discussion must be connected and certification integrated into the procurement process.

The OLBD is responsible for the certification process while the OCP is responsible for issuing contracts to qualified vendors. If the certification process could be aligned closer to the procurement process, such that once certified the LSDBE vendor is brought into the supply line, the LSDBE community would benefit tremendously.

### **3.2 Organizational Positioning of the Certification Process**

The Office of Local Business Development has some organizational hierarchy challenges that inhibit successful completion of its broad program scope, mission, and responsibilities. These challenges are exacerbated by the systematic lack of contract administration through the procurement supply chain, vague program measurements and accountability, and a communications breakdown between OLBD and OCP. The OLBD currently reports to the Deputy Mayor for Planning and Economic Development, and the OCP reports to the Deputy Mayor for Operations. It is our view that the certification process must be aligned organizationally and physically with the Office of Contracting and Procurement, which has the authority to enter into contracts on behalf of the District of Columbia, and, at present, is responsible for facilitat-

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ing over \$1.5 billion annually in government acquisitions for approximately 56 District government agencies.

Our research of public purpose programs similar to the LSDBE program in the public and private sectors indicates that successful supplier diversity programs are organizationally and physically aligned with the procurement function. In fact, a recent benchmarking study by the Center for Advanced Purchasing Studies indicates that eighty-three percent of the cities in the study with populations greater than 500,000 have a procurement outreach program for LSDBEs.

There are different approaches to accomplishing the goal of organizationally connecting the certification process to the procurement process. In the City of Chicago, the Minority and Women-owned Business Procurement Program promotes contracting opportunities to minority and women-owned business enterprises (M/WBE). This program is located within the Department of Procurement Services in the Division of Contract Monitoring and Certification. This Division certifies M/WBEs as well as administers the City's Equal Employment Opportunity and Affirmative Action requirements. The Contract Monitoring and Certification Division also plans educational outreach programs and workshops for minority and women-owned businesses.

In testimony at one of the Community Business Forums held by the Task Force, it was asserted that DC's OLBD spends most of its time on the certification process. When the State of Florida reviewed the operations of its Minority Business Advocacy and Assistance Office, it found that most of its time was spent certifying businesses and setting what some call misleading spending goals. In an effort to reprioritize the operations of the Office, Florida transferred the Office of Minority Business Advocacy and Assistance from the Department of Labor and Employment Security to the Department of Management Services, where the majority of procurement activities take place. They made this move because the Office would be "more successful in helping procurement agents find and recruit qualified minority businesses." (See *Equity in Contracting Plan*, Executive Summary, [www.myflorida.com](http://www.myflorida.com)).

In some cities, offices with similar responsibilities to OLBD's are required to provide the procuring agency with a list of qualified LSDBEs for specific procurements. In Baltimore, there is a Mayor's order that sets forth the steps agency and procurement officials must follow to include LSDBE businesses in City procurements. The Equal Opportunity Compliance Office provides the Agency or Department with a list of minority business enterprises and women's business enterprises qualified to provide the public works, services, materials, equipment, or supplies required by the City and provides the electronic mail addresses of the MBEs, and WBEs whenever applicable. The Subgroup believes that this can best be accomplished in the District if the certification process is handled in the procurement organization.

In the City of Philadelphia, there is a Minority Business Enterprise Council which certifies minority, women-owned, and disadvantaged business enterprises (M-DBEs, W-DBEs), provides information on contracting opportunities to certified firms, and reviews City department's Requests for Proposals (RFPs) and bid specifications to identify requirements which unduly restrict participation

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of protected class businesses. (See Executive Order 1-93 at [www.phila.gov/MBEC/Certification](http://www.phila.gov/MBEC/Certification)). The Council is separate from the procurement organization.

Positioning certification within OCP would facilitate one-stop shopping for LSDBEs. This means that in addition to the actual certification, vendors would receive information and directions that may assist them in landing contract awards. Once certified, LSDBEs can be introduced to specific contract opportunities directly from OCP officials, and can be assisted in getting on the City's LSDBE supply schedule.

Today, vendors must rely on fragmented procurement outreach by OLBD and OCP, or in some cases, have to rely on business relationships within agencies in order to learn of specific contracting opportunities with the District government. The Subgroup believes that a seamless procurement process, integrating LSDBEs in the beginning, can best be achieved with OCP as the certification process leader. Essential to the successful integration of LSDBEs into the procurement process, however, is the need for improved procurement information flow. Although procurement opportunities are currently housed on the OCP web-site and are advertised in various publications, many LSDBEs find that the procurement notification system is outdated, not specific to the needs of the LSDBE, and in some cases advertised contracts are already awarded when they appear on the agency's system.

Apple Computer provides an example of the one-stop concept. In 1993, a supplier diversity program was established by the Apple Computer Company to ensure that historically underutilized businesses (HUB) were provided with the maximum opportunity to do business with the company. A review of the Apple Supplier Diversity web-site yielded information about the basic components of their supplier diversity program including:

- ◆ Outreach – activity seeking diverse suppliers through minority and business development organizations and participation in various trade shows activities.
- ◆ Certification – verification of HUB status through screening processes.
- ◆ Qualification – review and input of selected business criteria and referral to appropriate purchaser for consideration.
- ◆ Development – review of additional needs of suppliers and exploring ways to provide assistance to them.
- ◆ Utilization – activities in the purchasing processes, such as routine purchases, requests for bids and contracts and other forms of purchase. (See [www.apple.com/supplierdiversity](http://www.apple.com/supplierdiversity).)

While the District's program includes local, small and disadvantaged businesses, this supplier diversity program could be a model for bringing more LSDBEs into the procurement process, integrating into one process each of the key components to a successful business utilization program.



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### 3.3 Procurement Knowledge and Expertise

The vast majority of municipalities that the Subgroup studied have combined the procurement function and the function that brings local, small and disadvantaged businesses into the procurement system. It is, therefore, key that in any supplier diversity initiative that the staff charged with carrying out the mission be versed on the procurement process. Without this knowledge, the OLBD staff can be an advocate for the LSDBE, but will have difficulty with execution because they lack knowledge and understanding of the supply line process. With expertise in the procurement and contracting processes, the staff of OLBD or OCP could determine the best way to prepare the LSDBE community and successfully match their capabilities with opportunity. In the City of Baltimore, there is a Minority and Women Business Enterprise Coordinator in the Bureau of Purchasing who is able to match these businesses with procurement opportunities. While OCP currently has a staff liaison with OLBD, the Subgroup believes that this liaison relationship falls short of aggressively promoting the utilization of LSDBEs inside of OCP, taking advantage of match-making opportunities with LSDBEs and current contract opportunities, and positioning LSDBEs for future contacting opportunities.

The basis of the procurement system is established in the Procurement Practices Act of 1985 (as amended). It established the Office of Contracting and Procurement as a central agency focal point for procurement activities within the District. It also established guidelines for procurement activities in the government. The regulatory procedures are outlined in municipal regulation 27 DCMR and were first published in 1988. The regulations have had several revisions over time. There are also financial thresholds and requirements for legislative oversight by District of Columbia Council.

The procurement process involves three major agency participants and is highlighted in Attachment A: *Office of Contracting and Procurement General Procurement Process*. The major process partners include the Program Office, which is normally the agency representative or customer, the Office of Contracting and Procurement, which is responsible for administering the legal and regulatory process necessary to acquire goods or services, and the Office of the Chief Financial Officer, which handles all of the fiscal issues dealing with the payments and availability of contract funding. The procurement process begins with the planning process in the agency, where budgetary and spending plans are formulated and used as the basis for agency procurement planning. These plans are validated by the Program Office and sent to the financial officer for commitment of funding. Once the funds are committed, the requirement is sent to the procurement organization, which performs all of the steps necessary to legally procure the supplies and services on behalf of the government entity. Once the contractual obligations are satisfied, an invoice is received and processed for payment in the Office of the Chief Financial Officer. Payment is made either by check or by electronic means, and occurs most of the time within 30 days after receipt of the invoice at the CFO.

The procurement process is basically a paper driven process and is controlled by the FORM 100. Attachment A outlines the typical actions that occur with the procurement process. The

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requisitioner completes the FORM 100 and submits the form to the CFO office, which in turn performs the financial operations necessary to encumber the funds. The Form is then submitted to OCP. Once the contract or purchase order is ready for award, the CFO must encumber the funds. Then, a notice that the distribution of contract documents is complete is manually sent to five separate areas. The procurement process ends with the award of a contract and further actions occur at the agency as necessary. The contract closeout point is where many procurements encounter difficulty.

There are currently 56 agencies that are supported by the Office of Contracting and Procurement (see Attachment B). However, there are 17 agencies that are not being supported by OCP and do not fall within the guidelines of the Procurement Practices Act as described in this Report. Each of these agencies is considered independent and operates under their own procurement authority, processes, and activities. This independent contracting authority represents a significant challenge for the City's procurement planning process, and specifically impacts the administration of the District's LSDBE program and the utilization of its program participants. While several of the independent agencies do seek to comply with DC Law 12-268 DC Code Sec. 2-217, 20010, and do meet the LSDBE program goals, the District lacks the enforcement power to mandate reporting and compliance. Some of the larger independent agencies not governed by the Procurement Practices Act include the DC Public Schools, the Washington Convention Center Authority, the DC Water and Sewer Authority, and the DC Court System.

Improvement of the procurement process is tied to the automation of the entire supply line. Attachment C outlines how planning for LSDBE set-asides in the procurement process can be done using automation. Notice that the planning and contract administration encompasses automation and that the automation facilitates the process from the beginning to the end. It would be difficult to impossible to effect the improvements proposed without automation of the process, and cannot be attained by simply changing procedures or eliminating regulatory requirements. Within an automated environment, the planning for LSDBE set-asides occurs at the beginning of the process. The program manager develops an acquisition plan that provides the detail for the future fiscal year procurement activities. Included in the plan are the projected procurement activities and spending goals for the LSDBE program. The program plan contains the requirements as well as the funding for the next fiscal year. The plan actually ties the expenditures in the program to the goals of the LSDBE program. The document is called the Agency Acquisition Plan and is subsequently transmitted to OCP, where it is consolidated with the District plan for the entire City. This information is shared with the public and vendor community so that proper planning and procurement forecasting is available to the LSDBE community prior to solicitation. The final plan is then loaded and monitored into the automated system. In this way the contract expenditures planned and forecast are monitored and adjusted according to real world dynamics and changes.

There are always procurements that are not planned or forecasted in advance, and the automated system would also allow for the efficient processing of these types of requirements. In an automated system, unplanned procurements would start in the program office when the pro-

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gram manager identifies the requirement, generates the required Statement of Work (SOW), and electronically submits the document to the system for validation and financial encumbrance of funding. The buyer in OCP would be notified electronically and would send the procurement to an online bidding system that selects a vendor based on the lowest price. After the item of concern is received in the agency, payment is electronically processed quickly and automatically. The three-way match would be performed among OCP, CFO, and the program manager. If an invoice is submitted electronically, it is processed with literally no paper work. Once the contract is issued, a performance management system would start and monitor the contract performance through the cycle.

During testimony at the Community Business Forums held by the Task Force, numerous LSDBEs commented on the need for better contract administration and forecasting of procurements. The Subgroup supports OCP's assessment and belief that automating the procurement process will go a long way in solving some of the contract administration and forecasting problems that these LSDBEs complained about. The CAPS Purchasing Performance Benchmarking Study for Municipal Governments indicates that 94.7% of the municipal governments surveyed have an automated purchasing system, a web-site, and maintain a prospective bidders list. In a 2000 study of different cities, 100% of the municipalities reporting had automated systems.<sup>1</sup>

### **3.4 Contractor Performance Management**

To further strengthen the procurement process, with an emphasis on increasing LSDBE utilization, consideration must also be given to oversight and reporting of vendor performance. This contract evaluation and administration is crucial to the success of the vendor and the LSDBE procurement environment. In the process of identifying and selecting a LSDBE contractor, this issue becomes apparent. The Subgroup applauds the efforts of OLBD to provide vendor listings of LSDBEs online to the agencies of the government and private sector stakeholders. However, interested buyers lack critical decision-making information regarding a vendor's business capabilities and performance history. During the course of the Task Force research, many of the contracting officers, agency directors, and private sector developers interviewed complained about the quality or capacity of the smaller businesses. Some expressed concern that it is difficult to remove a vendor from a contract for poor quality and often it is simply easier to accept the under-performance than to change vendors. Without some performance management data, prospective buyers are forced to spend long hours making inquiries about LSDBEs from a variety of other sources. This, of course, operates against the fundamental core of the LSDBE program, which is to *facilitate* the utilization of these businesses, and not to burden prospective prime contractors with onerous processes and steps. It is difficult for any prime contractor to determine the star performers, and, equally important there is no process of identifying poor performance. Promoting the successful performance on past contracts

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<sup>1</sup> (The Center for Advanced Purchasing Studies, Study #4 August 15, 2001.)

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by LSDBE vendors to government and private sector prime contractors must be a key goal of OLBD and OCP.

The Subgroup believes that the proposed Performance Management System addresses many of the issues related to performance management requirements. The Performance Management System would be automated and provide many contract administration functions from start to finish. The system could load the cost, quality, delivery and cycle time for the procurement. As the situation demands, the information would be posted for the various participants involved in the procurement process. Notifications would be sent to OCP, the vendor, and the program manager, as required. The procurement team at OCP would provide scrutiny of the contract and the requirements related to contract administration.

The system would generate an issue resolution plan, developed for each vendor and each situation where action is needed to correct contract performance. OCP would collaborate with the necessary procurement partners to resolve the issue with a corrective action plan. The eventual resolution of the situation would be documented into the system and provided to all of the users in an online format. This format would allow for the evaluation of lessons learned and also form the basis for some type of performance and information pattern analysis. (Attachment D outlines an automated performance management/contract administration process.)

The findings of the qualitative research conducted on behalf of the Task Force clearly support the Subgroup's conclusions. Focus group interviews with key program stakeholders indicate that some common themes emerged. These interviews included agency directors, procurement officers, private sector developers, and LSDBEs. Interviews with agency directors and procurement officers on their experience with the LSDBE program yielded criticisms that the District's procurement system is not working as well as it could, and that the District's supply line must be automated as soon as possible. Agency directors and procurement officers who were interviewed specifically note that aspects of the procurement system work counter to their utilization of LSDBEs and that there is always competitive pressure to select the lowest bidder, who may or may not be a certified LSDBE. Additionally, agency directors and procurement officers indicate that they find fewer or no LSDBEs in certain procurement areas, which makes it much harder for some agencies to meet their utilization goals. On the other hand, the LSDBE focus group interviewees indicate that District agencies "are not sensitive enough to the problems they face when trying to compete for city contracts." They believe that the agencies feel that LSDBEs lack the capabilities to handle larger projects, and therefore, may be overlooked when issuing contracts.

Agency directors, procurement officers, and private sector developers agree that more useful and timely information about LSDBEs business capabilities and contract performance should be made available in an electronic database format. The findings indicate that attention should be given to ways of making the procurement system more responsive to the use of LSDBEs. Currently the system appears to provide more incentive for District agencies to select the

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“safe” vendor than to use an LSDBE.” Agency directors and procurement officers should be encouraged to find new ways of bringing more LSDBEs into the contracting process.

The Subgroup reviewed the organizational structure of the Office of Contracting and Procurement’s and determined that more individualized attention should be given to vendor issues, including LSDBE utilization. This could be accomplished by providing more operational authority at the lower levels of OCP. A look at the staffing patterns in the OCP indicates that several staff members have the same job classifications. They were called either contract specialists or supervisory contract specialists. The addition of a more versatile job classification system would allow the office to concentrate its personnel into specific duties and responsibilities. The Procurement Practices Act (PPA) directs centralization of a procurement supply line that must include contract administration.

### **3.5 Contract Administration**

Even without completion of the automated system, there is a critical need to establish contract administration as an integral part of the procurement process in the District. Many of the issues considered by the Task Force relate to contract administration functions. However, the District’s procurement system could be described as “front loaded”, i.e. focusing almost exclusively on the timely award of contracts. Contract administration relates primarily to the vendor’s adherence to the terms and conditions documented in a contract, and represents the “back-end” functions associated with procurement. After the award of the contract occurs, very little contract administration attention is paid to the vendor or the customer. The Subgroup recommends including administration functions within OCP and expanding job classifications that describe the additional staff contract administration functions. Performing this change is not an easy task because it encompasses many functions that are currently not being performed by either OCP or OLBD. It is important to note that the Subgroup is not recommending that contract administration replace good program management. In fact, good program management and contract administration go hand in hand. Program management develops the policies and procedures that the contract enforces. It is not a substitute for the lack of detail in a specification, or the omission of critical policies and procedures. This deals with aspects outside the realm of contract administration.

To properly staff and supply contract administration functions, it will be important to include selected parts of the wide range of contract administration functions. The Subgroup assumes that the Chief Procurement Officer could perform the administration functions previously described with ten people, provided that only contracts above \$1 million are addressed. To ensure that the contract administration functions are performed properly for every agency in the government, additional personnel would be needed in contracting operations throughout the government.

It is important to note that few regulations or laws have to be changed or put in place for centralized contract administration within OCP. Many of the laws concerning contract administra-

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tion have been codified in DC Mun. Regs. Title 27 (2002). Contract administration functions must have qualified personnel to ensure compliance with contract terms and conditions. This is especially the case as it relates to contracting and subcontracting with LSDBEs. During the Task Force community meetings, the Subgroup heard anecdotal statements that some prime contractors are guilty of not paying their subcontractors properly or guilty of not complying with local labor laws or statutes. In many instances, the government can neither admit nor deny that this occurs. For example, prior to the award of major contracts, affirmative action plans are required from prime contractors. For years, LSDBEs have complained that their company's name often appear on prime contractor's affirmative action plan, but not only are they not contacted to offer bids, often times they are not even notified by the prime that their company name has even been listed. Timely subcontractor payments from the prime contractor are another issue that many LSDBEs complain about. Strong contract administration would mitigate the likelihood of these type occurrences.

### 3.6 Measures of Program Success

While automating the District's procurement process will allow the District to capture all transactions, including those with LSDBEs, automation will also improve the integrity of LSDBE utilization data. The Subgroup found a strong perception among program stakeholders that LSDBE utilization data was not reliable. It becomes difficult for the District to dispute this perception because the financial and procurement reporting systems used are so disparate. In reporting program outcomes, OLBD relies on a "hodgepodge" of procurement and financial reports from OCP and the CFO to compile its program report. Neither of these data sources use reporting elements specific to the LSDBE program, such as National Institute of Governmental Purchasing (NIGP) codes, nor is the LSDBE's certification used as a data element. Ensuring that essential LSDBE program data elements are integrated into a procurement and financial system is critical to successfully and accurately measuring program success.

At present, OLBD tracks and uses the following performance measures:

- ◆ Number of LSDBEs certified and/or re-certified.
- ◆ Number of District agencies that meet their LSDBE contracting goals.
- ◆ Percentage of total contracts awarded on the new Washington Convention Center development.

With regard to program measures, the Subgroup finds a number of issues with the current measures of success. The Subgroup believes that:

- ◆ Contract award amounts are not the correct measure of success; but that *contract payments* are a better measure.

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- ◆ Contract awards are announced as total contract amount – though the contract may span over a 3 – 5 year period; measures should be for the current year only.
  - ◆ Announcing solicitations are of little value because they may never come to fruition.
  - ◆ Agency LSDBE utilization goals are not clearly defined, and are not based on contract execution.

## **4.0 Recommendations:**

### **ISSUE: Linking Certification to Procurement**

- ◆ Transfer LSDBE certification and re-certification functions and resources from OLBD to OCP.

This would require administrative rule changes to address the role and responsibilities of the Local Business Opportunity Commission (LBOC). The Subgroup is not recommending any changes in the role, duties, or authority of the LBOC. The District should benchmark the time it takes for certifications and re-certifications to be processed to determine whether additional certification officers are required in OCP.

### **ISSUE: Add Procurement Technical Expertise in OLBD**

#### **Recommendation:**

- ◆ Ensure that some OLBD staff have strong technical backgrounds and expertise in procurement or transfer OCP's Business Development and Compliance Officer to OLBD. In order for OLBD to be an effective advocate for LSDBE utilization with OCP, staff must have sufficient expertise in procurement.

In the City of Baltimore, one of the primary objectives of the Office of Minority Business Development is to dramatically increase contracting and procurement dollars spent with minority businesses. There is also a Minority and Women Business Enterprise Coordinator in the Bureau of Purchasing who is able to match these businesses with procurement opportunities. Similarly, OCP's staff includes a senior level Business Development and Compliance Officer with responsibilities for reviewing agency procurement plans, determining agency expendable budget amounts, receiving and analyzing quarterly compliance reports, resolving contract disputes between agencies and LSDBEs and interceding on behalf of LSDBEs on invoice processing issues. In addition, this individual's position description includes numerous other duties including LSDBE capacity building, contract monitoring/compliance and business consulting/counseling and technical assistance.

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**Issue: Procurement Process Re-engineering**

- ◆ Completely reengineer and automate the District's procurement process to include contract administration functions and compliance tracking requirements related to the LSDBE program. Fix the processes prior to automating them.

The Office of Contracting and Procurement is planning to automate the procurement process. This automation will require a multi-year, multi-million dollar commitment. The Subgroup recommends that the automation plan continues and that any new automated procurement system include features to capture contract administration, compliance, and vendor performance data related to the LSDBE program.

**Issue: Contractor Performance Management**

OCP should implement a vendor performance management system to document LSDBE business capabilities and past contract performance. Elements of the system should be accessible to all District agencies and private sector buyers as well individuals who are interested in learning more about certified LSDBEs.

A review of vendor evaluation forms used by members of the Center for Advanced Purchasing Supply (CAPS) yielded examples of supplier evaluation forms that the Subgroup suggests that the District could use as model. Numerous procurement programs in corporations and large cities include vendor performance data that allows agencies and procurement officers to determine the quality of work performed by the contractors. The Subgroup suggests that the District adopt a vendor evaluation system for all vendors.

**Issue: Measures of Program Success****Recommendations:**

- ◆ Allocate funding in OLBD's FY 2004 budget to support LSDBE related systems requirements. Funding is recommended to ensure that data reporting requirements outlined in DC Mun. Regs. title. 27 (2002) are fully considered, met and funded with the adoption of a new automated procurement system. This will help ensure that the new procurement systems captures data required to monitor the effectiveness of the LSDBE program.
- ◆ Redefine the measures of success with emphasis on expenditures of dollars with LSDBE's rather than the number of contracts awarded.



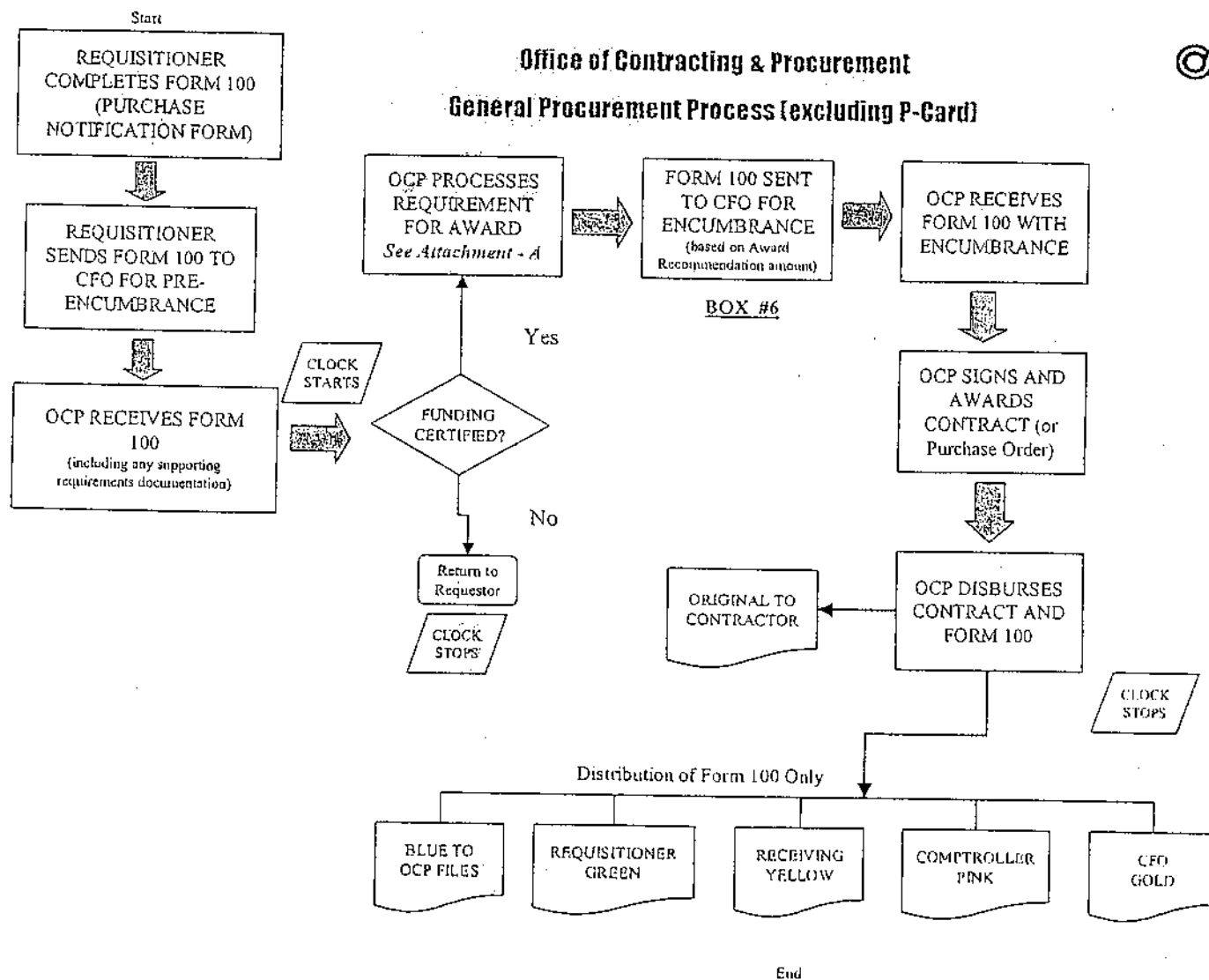
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**Issue: Contract Administration****Recommendations:**

- ◆ Transfer all contract administration and contract monitoring functions to the Office of Contracting and Procurement. Add contract administration personnel and functions to the Office of Contracting and Procurement.

The Subgroup believes that complete automation of the procurement process will enable OCP to provide enhanced contract administration and improve compliance. The system design should include contract administration and compliance functions. The Subgroup assumes that OCP could perform these functions with 10 additional people. OCP does not currently perform these functions for the LSDBE program.



# AGENCIES SERVED AND NOT SERVED BY OCP

## AGENCIES SERVED BY OCP

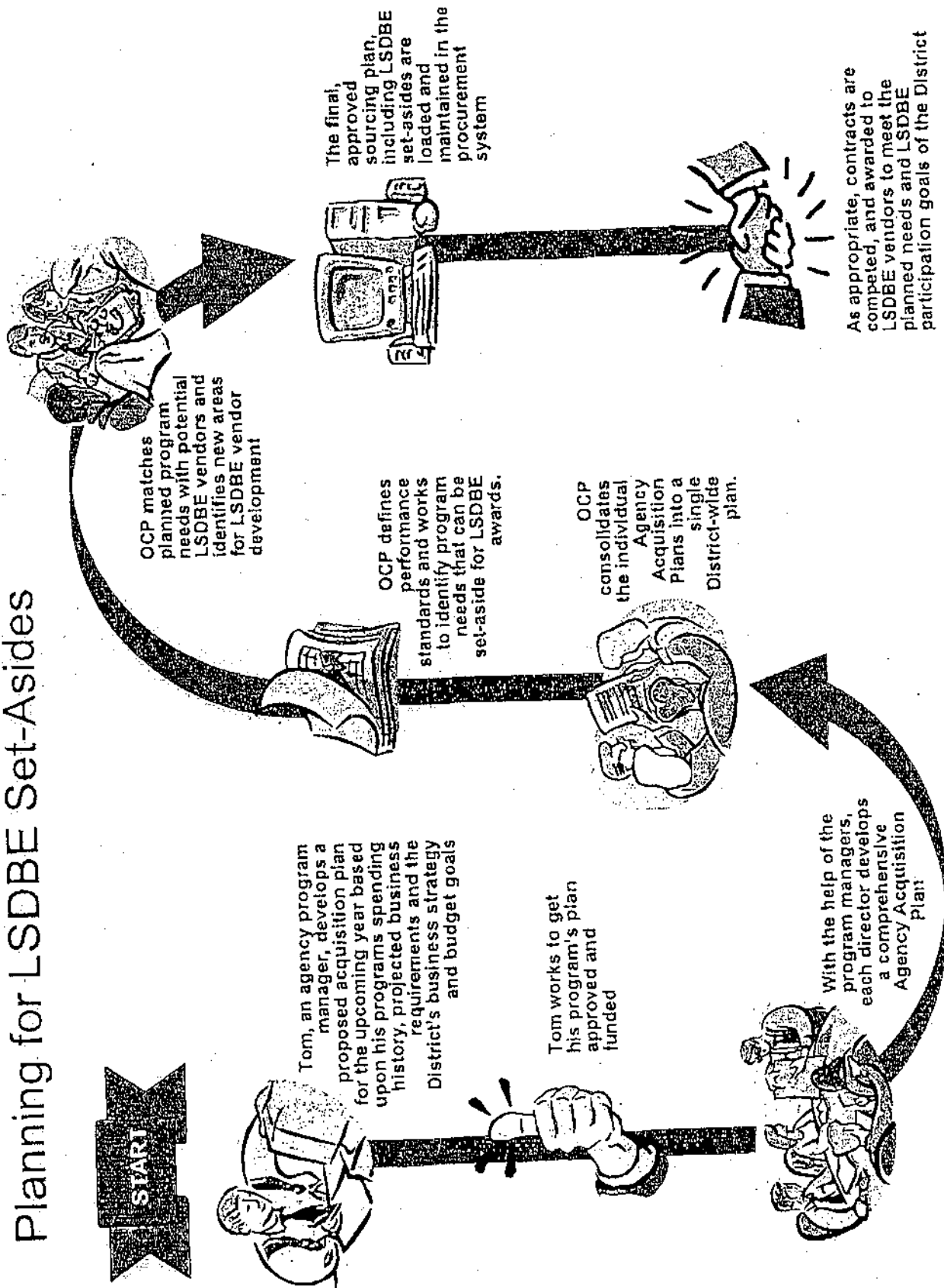
- . Board of Appeals & Review
- . Board of Real Property Assessments & Appeals
- . Commission on Judicial Disabilities & Tenure
- . Commission on National & Community Services
- . Commission the Arts & Humanities
- . Court Services & Offender Supervision Agency
- . DC Energy Office
- . Department of Corrections
- . Department of Employment Services
- . Department of Fire & Emergency Medical Services
- . Department of Health
- . Department of Housing & Community Development
- . Department of Human Services
- . Department of Insurance & Securities Regulation
- . Department of Mental Health
- . Department of Motor Vehicles
- . Department of Parks & Recreation
- . Department of Public Works
- . Office of Advisory Neighborhood Commissions
- . Office of Motion Pictures & Television Development
- . Office of Banking & Financial Institutions
- . Office of Cable TV & Telecommunication
- . Department of Consumer & Regulatory Affairs
- . Office of Employee Appeals
- . Office of Finance & Resource Management
- . Office of Human Rights
- . Office of Intergovernmental Relations
- . Office of Labor Management Programs
- . Office of Neighborhood Action
- . Office of Operational Improvements
- . Office of Partnership & Grants Development
- . Office of Personnel
- . Office of Planning
- . Office of Property Management
- . Office of the Chief Medical Examiner
- . Office of the Chief Technology
- . Office of the Corporation Counsel

- . Office of the Deputy Director for Planning & Economic Development
- . Office of the Deputy Mayor for Children, Youth, Families & Elders
- . Office of the Deputy Mayor for Public Safety & Justice
- . Office of the Deputy Mayor / Office of the City Administrator
- . Office on Aging
- . Office on Latino Affairs
- . Office of Labor Relations & Collective Bargaining
- . Office of Local Business Development
- . Public Library
- . State Education Office
- . University of the District of Columbia
- . Office of Communications
- . Mayor's Office of Boards and Commissions
- . Metropolitan Police Department
- . Executive Office of the Mayor
- . Deputy Director for Children, Youth & Families
- . District Division of Transportation
- . Judicial Nomination Commission
- . Office of Tuition Assistance Grant Program

## AGENCIES NOT SERVED BY OCP

- . Convention Center
- . Sports Commission
- . Housing Finance Agency
- . Retirement Board
- . Council of the District of Columbia
- . Office of the Chief Financial Office
- . DC Water and Sewer Authority
- . DC Court System
- . Pretrial Services Agency
- . Corrections Trustee
- . Advisory Neighborhood Commissions
- . Public Service Commission
- . DC Public Schools
- . Child and Family Services Agency
- . Department of Mental Health
- . DC Housing Authority

# Planning for LSDBE Set-Asides



# Performance Management (Contract Administration)

